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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,593	09/19/2001	Christopher Mark Elms	120 01449 US	7237

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/954,593

Applicant(s)

ELMS ET AL.

Examiner

Steven B. McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-17 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-17 and 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Examination Note***

The examiner notes, as directed by MPEP 2144.03(C ) that the “well known in the art” statement of the previous office action is taken as admitted prior art because no adequate traversal of the statement was made in the response to the action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8-10, 12, 14-16, 22, 23, 27 and 28 are rejected under 35

U.S.C. 102(e) as being anticipated by Spencer (6,356,909).

Spencer shows receiving a query from a first party (e.g., selecting the address book to determining possible recipients); searching a database for correspondents and sending a list of potential correspondents including a second party (e.g., showing those in the address book); receiving an indication that the first party wants to correspond with the second party (e.g., comprising checking the selection box next to that party – Fig. 16); receiving a correspondence comprising an RFP; presenting the second party with

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the RFP; receiving a correspondence from the second party comprising a reply; passing it to the first party; and soliciting from the first party its level of satisfaction with the correspondence from the second party (e.g., col. 9, lines 20-25).

As to claims 14, 21, 27 and 28, it is noted that the apparatus of Spencer shows all recited elements since the software and hardware of Spencer carries out the recited steps (see rejection of claims 1 and 8 above).

As to claims 2, 9, 15, and 22, the correspondence from both parties is saved and is viewable by both parties.

As to claims 3, 10, 16, and 23, Spencer shows presenting a service to from the second party to the first.

As to claim 12, Spencer shows soliciting comments from the first party comprising rating the response from the second party.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 11, 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer in view of Gusley (6,725,204).

Spencer shows all elements of the claims except receiving a desire to receive the service or product and send an order to the second part. Gusley shows these steps. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by completing the transaction as shown by Gusley in order to provide a consistent interface for the parties to complete the transaction.

Claims 7, 13, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer in view of Kaufeld et al (5,859,967).

Spencer shows all elements of the claims except translating communications from parties from one language to another. Kaufeld et al show translating communications. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by providing translation as taught by Kaufeld et al in order to allow contracting between parties who speak different languages.

Claims 6, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer.

Spencer shows all elements of the claims except calculating compensation due to the host system. However, it is notoriously old and well known in the art to determine a fee or commission for mediating a contracting processes. It would have been obvious to one of ordinary skill in the art to modify the process of Spencer by calculating a fee or commission in order to provide revenue to the host system.

***Response to Arguments***

Applicant's arguments filed 9/30/2004 have been fully considered but they are not persuasive.

Applicant argues that the 102 rejection is not proper because Spencer does not solicit the first party's level of satisfaction with the correspondence from the second party. The examiner respectfully disagrees. For instance, the text of column 9, lines 20-25 show this step.

Regarding the arguments directed to claims 6, 19 and 25, it is noted that no adequate traversal per MPEP 2144.03(C) has been presented regarding the fact that determining a fee is old and well known in the art and is therefore taken as admitted prior art.

Regarding the arguments directed to claims 4, 11, 17, 24 and 25, the examiner respectfully disagrees that with the assertion that Spencer does not contemplate a sale. The entire process is directed toward enabling a sale to take place.

Regarding the arguments directed to claims 7, 13, 20 and 26, the examiner respectfully disagrees with the assertion of non-analogous art. Both references are in the field of facilitating communications between parties. Further, even if the art were to be considered non-analogous, the 103 combination is still proper because the reference solves the disclosed problem in the same or substantially similar manner as the applicant, by providing translation means better facilitating communication between the parties.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister

**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**